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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)	CIVIL CASE NO.: 08-00015
)	
Plaintiff,)	
)	AMENDED COMPLAINT
vs.)	
)	
SABLAN CONSTRUCTION)	
COMPANY, LTD. and SABLAN)	
ENTERPRISES, INC.,)	
)	
Defendants.)	

The United States of America, acting on behalf of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, pursuant to a referral by the U.S. Department of Treasury pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 et seq., files its Amended Complaint to collect civil money penalties against Defendants, SABLAN CONSTRUCTION COMPANY, LTD. ("Sablan Constr.") and SABLAN ENTERPRISES, INC. ("Sablan Enter.") (herein collectively referred to as "Defendants"). The purpose of this civil action is to collect delinquent debts totaling \$138,728.70, arising from numerous Civil Money Penalties imposed by OSHA on Defendants, for violations of the

1 Occupational Health and Safety Act of 1970 (the "Act") and OSHA regulations at 29 C.F.R. Part
2 1926.

3
4 **JURISDICTION AND VENUE**

5 1. This action arises under the Federal Debt Collections Procedures Act ("FDCPA"),
6 28 U.S.C. § 3001 et seq. This Court has jurisdiction under 28 U.S.C. §1355.

7 2. Venue is proper, pursuant to 28 U.S.C. §1391(b), in this judicial district for the reason
8 that Sablan Constr.'s and Sablan Enter.'s principal offices are located in Saipan, Commonwealth
9 of the Northern Mariana Islands, Defendants are doing business in this judicial district, and the
10 actions complained of herein were taken by Defendants in this judicial district.
11

12 **PARTIES**

13 3. At all times material to this civil action, the Department of Labor was an agency
14 of the Plaintiff, United States.
15

16 4. At all times material to this civil action, Sablan Constr. has conducted business and
17 the acts complained of herein and for which the enforcement of the civil money penalties is
18 sought within this judicial district. During times material to this civil action, upon information
19 and belief, Sablan Constr. has operated its general construction, commercial space rental, house
20 rental, equipment rental, and land lease business under the name "Sablan Construction Company,
21 Ltd."
22

23 5. At all times material to this civil action, Sablan Enter. has conducted business and the acts
24 complained of herein and for which the enforcement of the civil money penalties is sought
25 within this judicial district. During times material to this civil action, upon information and
26 belief, Sablan Enter. has operated its building construction, equipment rental, retail hardware,
27
28

office/apartment rental, wholesale, and hollow block manufacturing business under the name
 “Sablan Enterprise, Inc.”

COUNT ONE

**VIOLATIONS OF 29 C.F.R. § 1926.21(b)(2), § 1926.300(b)(2), § 1926.451(3)(1),
 § 1926.652(a)(1), § 1926.701(b), AND § 1926.451(g)(1)(vii)**

SABLAN CONSTRUCTION COMPANY, LTD. (OSHA INSPECTION NO. 107188369)

11. On May 5, 1997, as part of a planned series of inspections in the Northern Mariana Islands, OSHA officials inspected Sablan Constr.'s place of business, a construction site located at the Retirement Fund Building, Capital Hill, Saipan, and issued Sablan Constr. citations for violations of the Act including:

- a. Serious violation of 29 C.F.R. § 1926.21(b)(2) for a backhoe operator being observed chasing an employee while driving the backhoe, with \$2,500.00 penalty;
- b. Serious violation of 29 C.F.R. § 1926.300(b)(2) for unguarded belts and pulleys on a gas-powered compactor, with \$2,000.00 penalty;
- c. Serious violation of 29 C.F.R. § 1926.451(3)(1) for a scaffold platform being accessed by employees climbing up the frame of the scaffold, with \$2,500.00 penalty;
- d. Serious violation of 29 C.F.R. § 1926.652(a)(1) for a 9 ½ foot-deep excavation with nearly vertical walls which were not shored, sloped, or benched to prevent cave-in, with \$2,500.00 penalty;
- e. Serious violation of 29 C.F.R. § 1926.701(b) for unguarded and uncapped rebar, with \$2,500.00 penalty; and
- f. Repeat violation of 29 C.F.R. § 1926.451(g)(1)(vii) for scaffolds with no guardrails, or inadequate guardrails, with \$12,500.00 penalty.

12. On July 2, 1997, OSHA issued a Citation and Notification of Penalty and a Debt

1 Collection Notice to Sablan Constr. in connection with the May 5, 1997 inspection, for penalties
2 totaling \$24,500.00.

3 13. On July 16, 1997, Sablan Constr. contested the citations as issued. On July 31, 1997,
4 OSHA and Sablan Constr. reached an Informal Settlement Agreement, to modify the citations
5 and penalties as follows:
6

- 7 a. Serious violation of 29 C.F.R. § 1926.21(b)(2): deleted;
- 8 b. Serious violation of 29 C.F.R. § 1926.300(b)(2): penalty reduced to \$1,500.00;
- 9 c. Serious violation of 29 C.F.R. § 1926.451(3)(1): penalty reduced to \$1,875.00;
- 10 d. Serious violation of 29 C.F.R. § 1926.652(a)(1): penalty reduced to \$1,875.00;
- 11 e. Serious violation of 29 C.F.R. § 1926.701(b): penalty reduced to \$1,875.00; and
- 12 f. Repeat violation of 29 C.F.R. § 1926.451(g)(1)(vii): penalty reduced to \$10,625.00.

13 14. Sablan Constr. failed to make timely payments in accordance with the Informal
14 Settlement Agreement. In an attempt to collect the \$17,750.00 outstanding penalty plus
15 associated interest and delinquent and administrative fees from Sablan Constr., OSHA's Area
16 Office sent a debt collection letter to Sablan Constr. on May 19, 1999.
17

18 15. On June 18, 1999, Sablan Constr. proposed a payment plan. OSHA and Sablan Constr.
19 signed the penalty payment agreement on June 22, 1999.
20

21 16. Sablan Constr. failed to make timely payments according to the June 22nd payment
22 plan. OSHA attempted to collect the outstanding penalties from Sablan Constr. by sending debt
23 collection letters to Sablan Constr. on December 9, 1999 and April 3, 2000.
24

25 17. On July 14, 2000, the OSHA National Office proposed a combined payment plan
26
27
28

1 to Sablan Constr. for three outstanding cases (OSHA Inspection Nos. 107188369, 107188732,
2 and 102947330). Sablan Constr. signed the combined payment plan agreement on January 26,
3 2001.

4
5 18. Sablan Constr. failed to make payments according to the combined payment plan,
6 including tendering payments that were returned due to non-sufficient funds.

7 19. Sablan Constr. continues to willfully ignore the United States' demands for payment
8 and refuses to make timely payments.

9
10 20. Sablan Constr. currently owes \$8,600.00 in outstanding penalties, plus interest and
11 delinquent and administrative fees.

12 **COUNT TWO**

13 **VIOLATION OF 29 C.F.R. § 1926.451(g)(1)(vii) AND § 1926.501(b)(1)**

14 **SABLAN CONSTRUCTION COMPANY, LTD. (OSHA INSPECTION NO. 107188732)**

15
16 21. On May 7, 1997, as part of a planned series of inspections in the Northern Mariana
17 Islands, OSHA officials inspected Sablan Constr.'s place of business, a construction site located
18 at the Saipan Airport, and issued Sablan Constr. citations for violations of the Act, including:
19

20 a. Serious violation of 29 C.F.R. § 1926.451(g)(1)(vii) for employees working on
21 scaffolds, without guardrails and/or personal fall arrest systems, with \$2,000.00
22 penalty; and

23 b. Repeat violation of 29 C.F.R. § 1926.501(b)(1) for employees working at levels 6
24 feet or more above a lower level, without guardrails, personal fall arrest systems, or
25 safety nets, with \$15,000.00 penalty.
26

27 22. On July 2, 1997, OSHA issued a Citation and Notification of Penalty and a Debt
28

1 Collection Notice to Sablan Constr. in connection with the May 7, 1997 inspection, for penalties
2 totaling \$17,000.00.

3 23. On July 31, 1997, OSHA and Sablan Constr. reached an Informal Settlement
4 Agreement, to modify the citations and penalties as follows:
5

6 a. Serious violation of 29 C.F.R. § 1926.451(g)(1)(vii): penalty reduced to \$1,500.00;
7 and

8 b. Repeat violation of 29 C.F.R. § 1926.501(b)(1): penalty reduced to \$12,750.00.
9

10 24. Sablan Constr. failed to make timely payments in accordance with the Informal
11 Settlement Agreement, including tendering payments that were returned due to non-sufficient
12 funds.

13 25. OSHA attempted to collect the debt, including associated interest and delinquent and
14 administrative fees, by sending debt collection letters on May 19, 1999 and May 31, 2000.
15

16 26. Sablan Constr. continues to willfully ignore OSHA's demands for payment and
17 refuses to make timely payments.

18 27. Sablan Constr. currently owes no outstanding penalties, but does owe interest and
19 delinquent and administrative fees in the amount of \$4,316.81, plus additional interest accrued
20 since 2001.
21

22 **COUNT THREE**

23 **VIOLATION OF 29 C.F.R. § 1926.451(g)(2), § 1926.502(d), § 1926.1052(c)(1),**
24 **§ 1926.451(e)(9)(i), § 1926.451(g)(1)(vii), § 1926.501(b)(1), AND § 1926.701(b)**

25 **SABLAN CONSTRUCTION COMPANY, LTD. (OSHA INSPECTION NO. 102947330)**

26 28. On March 9, 1998, as the result of a referral from an OSHA employee who
27
28

1 witnessed violations in plain sight, OSHA officials inspected Sablan Constr.'s place of business,
2 a construction site located at the Retirement Fund Building, Capital Hill, Saipan, and issued
3 Sablan Constr. citations for violations of the Act, including:
4

- 5 a. Serious violation of 29 C.F.R. § 1926.451(g)(2) for lack of fall protection for
6 employees working on scaffolds, with \$5,000.00 penalty;
- 7 b. Serious violation of 29 C.F.R. § 1926.502(d) for body belts used as fall protection
8 for employees working on the third and fourth level of the building under construction,
9 with \$2,000.00 penalty;
- 10 c. Serious violation of 29 C.F.R. § 1926.4052(c)(1) for lack of railings on stairs, with
11 \$1,500.00 penalty;
- 12 d. Repeat violation of 29 C.F.R. § 1926.451(e)(9)(i) for lack of safe means of access
13 to scaffold platforms, with \$25,000.00 penalty;
- 14 e. Repeat violation of 29 C.F.R. § 1926.451(g)(1)(vii) for lack of fall protection on a
15 scaffold platform, with \$50,000.00 penalty;
- 16 f. Repeat violation of 29 C.F.R. § 1926.501(b)(1) for lack of fall protection of the
17 second and third levels of the building, with \$50,000.00 penalty; and
- 18 g. Repeat violation of 29 C.F.R. § 1926.701(b) for unguarded and uncapped rebar,
19 with \$25,000.00 penalty.
- 20
- 21
- 22

23 29. On July 29, 1998, OSHA issued a Citation and Notification of Penalty and Debt
24 Collection Notice to Sablan Constr. in connection with the March 9, 1998 inspection, for
25 penalties totaling \$158,500.00.

26 30. On August 26, 1998, Sablan Constr. contested these citations and penalties. On
27 November 19, 1998, OSHA and Sablan Constr. reached a Formal Settlement Agreement, which
28

1 was affirmed by the Occupational Safety and Health Review Commission, with reductions in the
2 penalties.

3 31. The following amended citations and penalties are now a final order and are not subject
4 to review by any court or agency:
5

- 6 a. Serious violation of 29 § 1926.451(g)(2): penalty reduced to \$3,000.00;
- 7 b. Serious violation of 29 § 1926.502(d): penalty reduced to \$700.00;
- 8 c. Serious violation of 29 C.F.R. § 1926.4052(c)(1): penalty reduced to \$700.00;
- 9 d. Repeat violation of 29 C.F.R. § 1926.451(e)(9)(i): penalty reduced to \$16,000.00;
- 10 e. Repeat violation of 29 C.F.R. § 1926.451(g)(1)(vii): penalty reduced to \$32,000.00;
- 11 f. Repeat violation of 29 C.F.R. § 1926.501(b)(1): penalty reduced to \$16,000.00; and
- 12 g. Repeat violation of 29 C.F.R. § 1926.701(b): penalty and citation deleted.
13

14 32. Sablan Constr. failed to make timely payments in accordance with the Formal
15 Settlement Agreement. OSHA attempted to collect the debt, including associated interest and
16 delinquent and administrative fees, by serving Sablan Constr. with debt collection letters on
17 October 19, 2000 and January 24, 2004.
18

19 33. On July 14, 2000, the OSHA National Office proposed a combined payment plan to
20 Sablan Constr. for three outstanding cases (OSHA Inspection Nos. 10788369, 107188732, and
21 102947330). Sablan Constr. signed the combined payment plan agreement on January 26, 2001.
22

23 34. Sablan Constr. continues to willfully ignore OSHA's demands for payment and refuses to
24 make timely payments in accordance with the combined payment plan.

25 35. Sablan Constr. currently owes \$68,400.00 in outstanding penalties, plus interest and
26 delinquent and administrative fees.
27
28

COUNT FOUR

**VIOLATION OF 29 C.F.R. § 1926.651(c)(2), § 1926.651(e), § 1926.651(j)(2),
§ 1904.2(a), AND § 1926.652(a)(1)**

SABLAN CONSTRUCTION COMPANY, LTD. (OSHA INSPECTION NO. 109345835)

36. On January 28, 1999, as part of a planned series of inspections in the Northern Mariana Islands, OSHA officials inspected Sablan Constr.'s place of business, a construction site on Marpi Road across from the Grace Market in Saipan, and issued Sablan Constr. citations for violations of the Act including:

- a. Serious violation of 29 C.F.R. § 1926.651(c)(2) for lack of safe means of egress from a trench 12 feet deep and 450 feet in length, with \$4,200.00 penalty;
- b. Serious violation of 29 C.F.R. § 1926.651(e) for allowing employees to work under loads being lifted without an excavator, with \$4,200.00 penalty;
- c. Serious violation of 29 C.F.R. § 1926.651(j)(2) for failing to keep excavated materials and equipment at least two feet from the edge of a trench, with \$4,200.00 penalty;
- d. Willful violation of 29 C.F.R. § 1904.2(a) for failing to properly keep records of injuries and illnesses which happened on the job, with \$24,000.00 penalty; and
- e. Willful violation of 29 C.F.R. § 1926.652(a)(1) for failing to slope or shore the vertical walls of a 12 foot deep trench, to prevent cave-ins, with \$56,000.00 penalty.

37. On July 27, 1999, OSHA issued a Citation and Notification of Penalty and a Debt Collection Notice to Sablan Constr. in connection with the January 28, 1999 inspection, for penalties totaling \$92,600.00.

38. On August 16, 1999, Sablan Constr. contested these citations and penalties. On

1 September 25, 2000, OSHA and Sablan Constr. reached a Formal Settlement Agreement, which
2 was affirmed by the Occupational Safety and Health Review Commission, with some reductions
3 in the penalties.
4

5 39. The following amended citations and penalties are now a final order of OSHA and are
6 not subject to review by any court or agency:

- 7 a. Serious violation of 29 C.F.R. § 1926.651(c)(2): citation and penalty deleted;
- 8 b. Serious violation of 29 C.F.R. § 1926.651(e): penalty unchanged;
- 9 c. Serious violation of 29 C.F.R. § 1926.651(j)(2): penalty deleted;
- 10 d. Willful violation of 29 C.F.R. § 1904.2(a): penalty reduced to \$7,000.00; and
- 11 e. Willful violation of 29 C.F.R. § 1926.652(a)(1): penalty reduced to \$30,000.00.

12
13 40. Sablan Constr. failed to make timely payments in accordance with the Formal
14 Settlement Agreement, including tendering payments that were returned due to non-sufficient
15 funds.
16

17 41. OSHA attempted to collect the debt by serving Sablan Constr. with a debt collection
18 letter on March 26, 2001.

19 42. On May 1, 2001, OSHA and Sablan Constr. signed a penalty payment agreement.

20 43. Sablan Constr. continued to fail to make timely payments in accordance with the
21 May 1st penalty payment agreement, including tendering payments that were returned due to
22 non-sufficient funds.
23

24 44. OSHA continued to attempt to collect the debt, including associated interest and
25 delinquent and administrative fees, by serving Sablan Constr. with additional debt collection
26 letters on July 16, 2001, August 29, 2001, and October 17, 2001.
27

28 45. Sablan Constr. continues to willfully ignore OSHA's demands for payment and refuses

1 to make timely payments.

2 46. Sablan Constr. currently owes \$26,983.34 in outstanding penalties, plus interest and
3 delinquent and administrative fees.
4

5 **COUNT FIVE**

6 **VIOLATION OF 29 C.F.R. § 1910.142(c)(1) AND § 1910.142(f)(3)**

7 **SABLAN CONSTRUCTION COMPANY, LTD. (OSHA INSPECTION NO. 110522281)**

8 47. On November 18, 1999, as the result of a referral from the CNMI Department of
9 Environmental Quality, OSHA officials inspected Sablan Constr.'s place of business, labor
10 barracks for employee housing in San Antonio, Saipan, and issued Sablan Constr. citations for
11 violations of the Act, including:
12

- 13 a. Willful violation of 29 C.F.R. § 1910.142(c)(1) for employees using water
14 contaminated with E.Coli for laundry, washing dishes, washing food, cooking, and
15 brushing teeth, with \$49,500.00 penalty; and
16
17 b. Repeat violation of 29 C.F.R. § 1910.142(f)(3) for lack of hot water for laundry,
18 with \$200.00 penalty.

19 48. On January 25, 2000, OSHA issued a Citation and Notification of Penalty and a Debt
20 Collection Notice to Sablan Constr. in connection with the November 18, 1999 inspection, for
21 penalties totaling \$49,700.00.
22

23 49. On February 22, 2000, Sablan Constr. contested these citations and penalties. On May
24 18, 2001, OSHA and Sablan Constr. reached a Formal Settlement Agreement, with some
25 reductions in the penalties.
26

27 50. The following amended citations and penalties are now a final order of OSHA and are
28 not subject to review by any court or agency:

1 a. Willful violation of 29 C.F.R. § 1910.142(c)(1) (reclassified under Section 17 of
2 the OSH Act to “unclassified”): penalty reduced to \$22,300.00 and

3 b. Repeat violation of 29 C.F.R. § 1910.142(f)(3): unchanged.
4

5 51. Sablan Constr. failed to make timely payments in accordance with the Formal
6 Settlement Agreement, including tendering payments that were returned due to non-sufficient
7 funds.

8 52. OSHA has attempted to collect the debt, including associated interest and delinquent
9 and administrative fees, by serving Sablan Constr. with debt collection letters on October 19,
10 2001 and November 28, 2001.

11 53. Sablan Constr. continues to willfully ignore OSHA’s demands for payment and refuses
12 to make timely payments.
13

14 54. Sablan Constr. currently owes \$13,668.02 in outstanding penalties, plus interest and
15 delinquent and administrative fees.

16 **COUNT SIX**

17 **VIOLATION OF 29 C.F.R. § 1910.142(g) AND § 1910.142(c)(1)**

18 **SABLAN CONSTRUCTION COMPANY, LTD. (OSHA INSPECTION NO. 110526068)**

19 55. On March 12, 2001, as part of a series of planned inspections of all labor barracks in
20 the CNMI, OSHA officials inspected Sablan Constr.’s place of business, labor barracks for
21 employee housing in Afetna Square, San Antonio Saipan, and issued Sablan Constr. citations for
22 violations of the Act including:
23

24 a. Serious violation of 29 C.F.R. § 1910.142(g) for lack of electricity for lighting and
25 other services, with \$1,200.00 penalty;
26

27 b. Repeat violation of 29 C.F.R. § 1910.142(c)(1) for drinking water which was
28 contaminated with Total Coliform and E.Coli, with \$2,400.00 penalty; and

1 c. An "other than serious" violation with no penalty assessed.

2 56. On April 17, 2001, OSHA issued a Citation and Notification of Penalty and a Debt
3 Collection Notice to Sablan Constr. in connection with the March 12, 2001 inspection, for
4 penalties totaling \$3,600.00.

5
6 57. Sablan Constr. never contested the citations which are now a final order of OSHA and
7 are not subject to review by any court or agency.

8 58. Sablan Constr. failed to make timely payments of the penalties. OSHA attempted to
9 collect the debt, including associated interest and delinquent and administrative fees, by serving
10 Sablan Constr. with debt collection letters on July 3, 2001 and August 15, 2001.

11
12 59. Sablan Constr. continues to willfully ignore OSHA's attempts to collect the debt and
13 refuses to make timely payments.

14 60. Sablan Constr. currently owes \$327.34 in outstanding penalties, plus interest and
15 delinquent and administrative fees.

16
17 **COUNT SEVEN**

18 **VIOLATIONS OF 29 C.F.R. § 1926.304(f), § 1926.403(i)(2)(i), § 1926.404(b)(1),**
19 **§ 1926.451(a)(13), § 1926.500(d)(1), AND § 1926.59(e)(1)**

20 **SABLAN ENTERPRISES, INC. (OSHA INSPECTION NO. 102890696)**

21
22 6. On July 18, 1991, as part of a planned series of inspections in the Northern Mariana
23 Islands, OSHA officials inspected Sablan Enter.'s place of business, a construction site located at
24 the Sablan Building in Chalan Piao, Saipan, and issued Sablan Enter. citations for violations of
25 the Act including:

26 a. Serious violation of 29 C.F.R. § 1926.304(f) (three instances) for woodworking
27 tools and machinery which did not meet applicable requirements of the American
28

1 National Standards Institute, 01.1-1961, Safety Code for Woodworking
2 Machinery, with \$1,750.00 penalty;

3 b. Serious violation of 29 C.F.R. § 1926.403(i)(2)(i) for electric equipment operating
4 at 50 volts or more not guarded against accidental contact, with \$1,000.00 penalty

5 c. Serious violation of 29 C.F.R. § 1926.404(b)(1) for lack of ground-fault circuit
6 interrupters, with \$750.00 penalty;

7 d. Serious violation of 29 C.F.R. § 1926.451(a)(13) for scaffold capacity, with
8 \$1,250.00 penalty;

9 e. Serious violation of 29 C.F.R. § 1926.500(d)(1) for lack of fall protection, with
10 \$1,250.00 penalty;

11 f. Other-than-serious violation of 29 C.F.R. § 1926.59(e)(1) for lack of a written
12 hazard communication program, with \$750.00 penalty; and

13 g. Seven additional “other-than-serious” violations with no penalties assessed.
14

15 7. On October 17, 1991, OSHA issued a Citation and Notification of Penalty and a Debt
16 Collection Notice to Sablan Enter. in connection with the July 18, 1991 inspection, for penalties
17 totaling \$6,750.00.
18

19 6. Sablan Enter. never contested the citations which are now a final order of OSHA and are
20 not subject to review by any court or agency.
21

22 7. Sablan Enter. failed to make timely payments of the penalties. OSHA attempted to
23 collect the debt, including associated interest and delinquent and administrative fees, by serving
24 Sablan Enter. with a debt collection letter on June 1, 1999.
25

26 8. Sablan Enter. continues to willfully ignore OSHA’s demands for payment and refuses
27 to make timely payments.
28

1 9. Sablan Enter. currently owes \$6,750.00 in outstanding penalties, plus interest and
2 delinquent and administrative fees.

3 **COUNT EIGHT**

4 **VIOLATIONS OF 29 C.F.R. § 1910.305(g)(1)(iii), § 1910.142(c)(1), § 1910.142(f)(3),**
5 **AND § 1910.305(g)(2)(ii)**

6 **SABLAN ENTERPRISES, INC. (OSHA INSPECTION NO. 110527124)**

7
8 61. On August 16, 2001, as part of a series of planned inspections of all labor barracks in
9 the CNMI, OSHA officials inspected Sablan Enter.'s place of business, labor barracks for
10 employee housing on Beach Road in Chalan Piao, Saipan, and issued Sablan Enter. citations for
11 violations of the Act including:

- 12 a. Serious violation of 29 C.F.R. § 1910.305(g)(1)(iii) for flexible electrical cords
13 used for purposes prohibited by the standards, with \$750.00 penalty;
14
15 b. Repeat violation of 29 C.F.R. § 1910.142(c)(1) for cooking and washing water
16 contaminated with Total Coliform, with \$120.00 penalty;
17
18 c. Repeat violation of 29 C.F.R. § 1910.142(f)(3) for lack of hot water for bathing
19 and laundry, with \$300.00 penalty;
20
21 d. Repeat violation of 29 C.F.R. § 1910.305(g)(2)(ii) for spliced flexible cords, with
22 \$4,500.00 penalty; and
23
24 e. An "other-than serious" violation with no penalty assessed.

25 62. On October 10, 2001, OSHA issued a Citation and Notification of Penalty and a Debt
26 Collection Notice to Sablan Enter. in connection with the August 16, 2001 inspection, for
27 penalties totaling \$5,670.00.

28 63. On December 11, 2001, OSHA and Sablan Enter. reached an Informal Settlement
Agreement, with some reductions in the penalties, and which included a penalty payment plan.

64. These amended citations and penalties are now a final order of OSHA and are not subject to review by any court or agency:

- a. Serious violation of 29 C.F.R. § 1910.305(g)(1)(iii): penalty reduced to \$600.00;
- b. Repeat violation of 29 C.F.R. § 1910.142(c)(1): penalty reduced to \$96.00;
- c. Repeat violation of 29 C.F.R. § 1910.142(f)(3): penalty reduced to \$240.00; and
- d. Repeat violation of 29 C.F.R. § 1910.305(g)(2)(ii): penalty reduced to \$3,600.00.

65. Sablan Enter. failed to make timely payments in accordance with the Informal Settlement Agreement, including tendering payments that were returned due to non-sufficient funds.

66. OSHA attempted to collect the debt, including associated interest and delinquent and administrative fees, by serving Sablan Enter. with debt collection letters on April 29, 2002 and June 19, 2002.

67. Sablan Enter. continues to willfully ignore OSHA's demands for payment and refuses to make timely payments.

68. Sablan Enter. currently owes \$3,900.00 in outstanding penalties, plus interest and delinquent and administrative fees.

COUNT NINE

VIOLATIONS OF 29 C.F.R. § 1926.451(b)(1), § 1926.451(g)(1)(vii), AND § 1926.451(g)(4)(i)

SABLAN ENTERPRISES, INC. (OSHA INSPECTION NO. 109352740)

69. On September 6, 2001, as part of a planned series of inspections in the Northern Mariana Islands, OSHA officials inspected Sablan Enter.'s place of business, a construction site located at St. Jude Church, Koblerville, Saipan, and issued Sablan Enter. citations for violations of the Act including:

1 a. Serious violation of 29 C.F.R. § 1926.451(b)(1) for a scaffold platform which was
2 not fully planked, exposing the employee to a 12 foot fall, with \$900.00 penalty;

3 b. Serious violations of 29 C.F.R. § 1926.451(g)(1)(vii) for employees working on a
4 scaffold without a personal fall arrest system or guardrail system and 29 C.F.R. §
5 1926.451(g)(4)(i) for inadequate guardrail systems, with a total penalty of \$3,000.00.
6

7 70. On December 6, 2001, OSHA issued a Citation and Notification of Penalty and a Debt
8 Collection Notice to Sablan Enter. in connection with the September 6, 2001 inspection, for
9 penalties totaling \$3,900.00.
10

11 71. On January 10, 2002, OSHA and Sablan Enter. reached an Informal Settlement
12 Agreement, with some reductions in the penalties. This Agreement also included terms for a
13 payment plan, including the provision that if the employer defaulted on the payment plan,
14 penalties would revert to the originally assessed amount.
15

16 72. These amended citations and penalties are now a final order of OSHA and are not
17 subject to review by any court or agency:

18 c. Serious violation of 29 C.F.R. 1926.451(b)(1): penalty reduced to \$720.00; and

19 d. Serious violations of 29 C.F.R. 1926.451(g)(1)(vii) and 29 C.F.R.
20 § 1926.451(g)(4)(i): total penalty reduced to \$2,400.00.
21

22 73. Sablan Enter. failed to make timely payments in accordance with the Informal
23 Settlement Agreement, including tendering a payment that was returned due to non-sufficient
24 funds. OSHA attempted to collect the debt, including associated interest and delinquent and
25 administrative fees, by serving Sablan Enter. with debt collection letters on February 25, 2002
26 and May 15, 2002.
27

28 74. Sablan Enter. Sablan Enter. continues to willfully ignore OSHA's demands for payment

1 and refuses to make timely payments.

2 75. Sablan Enter. currently owes \$3,900.00 in outstanding penalties, plus interest and
3 delinquent and administrative fees.
4

5 **COUNT TEN**

6 **VIOLATIONS OF 29 C.F.R. § 1926.451(e)(1) AND § 1926.501(b)(1)**

7 **SABLAN ENTERPRISES, INC. (OSHA INSPECTION NO. 308515113)**

8 76. On December 9, 2004, as part of a planned series of inspections in the Northern
9 Mariana Island, OSHA officials inspected Sablan Enter.'s place of business, a construction site
10 located in a building on Beach Road in Chalan Piao, Saipan, and issued Sablan Enter. citations
11 for violations of the Act including:
12

- 13 a. Serious violation of 29 C.F.R. § 1926.451(e)(1) for lack of safe access to scaffold
14 platforms, with \$600.00 penalty; and
15
16 b. Serious violation of 29 C.F.R. § 1926.501(b)(1) for employees working on
17 elevated levels with no fall protection, with \$2,000 penalty.

18 77. On February 4, 2005, OSHA issued a Citation and Notification of Penalty and a Debt
19 Collection Notice to Sablan Enter. in connection with the December 9, 2004 inspection, for
20 penalties totaling \$2,600.00.
21

22 78. Sablan Enter. never contested the citations which are now a final order of OSHA and
23 are not subject to review by any court or agency.

24 79. Sablan Enter. failed to make timely payments of the penalties. OSHA attempted to
25 collect the debt, including associated interest and delinquent and administrative fees, by serving
26 Sablan Enter. with debt collection letters on April 22, 2005 and June 1, 2005.
27

28 80. Sablan Enter. continues to willfully ignore OSHA's demands for payment and refuses

1 to make timely payments.

2 81. Sablan Enter. currently owes \$2,600.00 in outstanding penalties, plus interest and
3 delinquent and administrative fees.
4

5 **COUNT ELEVEN**

6 **VIOLATIONS OF 29 C.F.R. § 1926.451(b)(1) AND § 1926.451(g)(1)**

7 **SABLAN ENTERPRISES, INC. (OSHA INSPECTION NO. 110548922)**

8 82. On May 20, 2006, as part of a planned series of inspections in the Northern Mariana
9 Islands, OSHA officials inspected Sablan Enter.'s place of business, a construction site located at
10 Sablan Building in Chalan Kona, Saipan, and issued Sablan Enter. citations for violations of the
11 Act including:
12

- 13 a. Serious violation of 29 C.F.R. § 1926.451(b)(1) for scaffold platforms which were
14 not fully planked, with \$1,000.00 penalty; and
15
16 b. Serious violation of 29 C.F.R. § 1926.451(g)(1) for employees working on a
17 scaffold without fall protection, with \$1,000.00 penalty.

18 83. On June 28, 2006, OSHA issued a Citation and Notification of Penalty and a Debt
19 Collection Notice to Sablan Enter. in connection with the May 20, 2006 inspection, for penalties
20 totaling \$2,000.00.
21

22 84. Sablan Enter. never contested the citations which are now a final order of OSHA and
23 are not subject to review by any court or agency.

24 85. Sablan Enter. failed to make timely payments of the penalties. OSHA attempted to
25 collect the debt, including associated interest and delinquent and administrative fees, by serving
26 Sablan Enter. with debt collection letters on September 8, 2006 and October 18, 2006.
27

28 86. Sablan Enter. continues to willfully ignore OSHA's demands for payment and refuses

1 to make timely payments.

2 87. Sablan Enter. currently owes \$2,000.00 in outstanding penalties, plus interest and
3 delinquent and administrative fees.
4

5 **COUNT TWELVE**

6 **VIOLATIONS OF 29 C.F.R. § 1910.142(c)(1), § 1910.304(g)(5) AND § 1910.305(b)(2)(i)**

7 **SABLAN ENTERPRISES, INC. (OSHA INSPECTION NO. 311318034)**

8 88. On September 17, 2007, as part of a planned series of inspection in the Northern
9 Mariana Islands, OSHA officials inspected Sablan Enter.'s place of business, labor barracks for
10 employee housing on Tun Tomas P. Sablan Road, Saipan, and issued Sablan Enter. citations for
11 violations of the Act including:
12

- 13 a. Serious violation of 29 C.F.R. § 1910.142(c)(1) for drinking, washing and bathing
14 water which was contaminated with Total Coliform and E. Coli, with \$1,000.00
15 penalty;
16
17 b. Serious violations of 29 C.F.R. § 1910.304(g)(5) for an outlet with an open
18 ground, and 29 C.F.R. § 1910.305(b)(2)(i) for an outlet box missing a faceplate, with
19 a total penalty of \$600.00; and
20
21 c. Three additional "other-than-serious" violations with no penalties assessed.

22 89. On October 15, 2007, OSHA issued a Citation and Notification of Penalty and a
23 Debt Collection Notice to Sablan Enter. in connection with the September 17, 2007 inspection,
24 for penalties totaling \$1,600.00.

25 90. Sablan Enter. never contested the citations which are now a final order of OSHA and
26 are not subject to review by any court or agency.
27

28 91. Sablan Enter. failed to make timely payments of the penalties. OSHA attempted to

1 collect the debt, including associated interest and delinquent and administrative fees, by serving
2 Sablan Constr. with debt collection letters on January 10, 2008 and February 20, 2008.

3 92. Sablan Enter. continues to willfully ignore OSHA's demands for payment and
4 refuses to make timely payments.

5 93. Sablan Enter. currently owes \$1,600.00 in outstanding penalties, plus interest and
6 delinquent and administrative fees.

7
8 **PRAYER FOR RELIEF**

9 WHEREFORE, the United States demands judgment against the Defendants as follows:
10

11 1) Pursuant to Counts 1 through 6, a judgment against Sablan Construction
12 Company, Ltd., in the amount of the principal amount of \$117,978.70, plus accrued pre-
13 judgment interest at the corresponding legal rate, delinquency fees on each citation at the rate of
14 6% per annum accruing from the date that the debt became due, and administrative fees;

15 2) Pursuant to Counts 7 through 12, a judgment against Sablan Enterprises, Inc., in
16 the amount of the principal amount of \$20,750.00, plus accrued pre-judgment interest at the
17 corresponding legal rate, delinquency fees on each citation at the rate of 6% per annum accruing
18 from the date that the debt became due, and administrative fees;

19 3) Assessment of a 10% surcharge pursuant to the provisions of Section 3011 of the
20 Federal Debt Collection Procedures Act; and

21 4) Post judgment interest at the judgment rate in effect as of the date of judgment,
22 costs, and such other relief as this Court may find to be just and equitable.

23 //

24 //

25 //

1 Respectfully submitted this 6th day of April, 2008.

2
3 LEONARDO M. RAPADAS
4 United States Attorney
5 Districts of Guam and NMI

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